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April 8, 2008

United States District Court
 Chambers of Harold Baer, Jr.
 500 Pearl Street
 New York, NY 10007

USDS SDNY
 DOCUMENT
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Attn: Linda Eckhouse

Re: Adonna Frometa v. Mario E. Diaz-Diaz & All American Haulers & Recycling
 Date of Loss: 2/14/2007
 Case No.: 07 CV 6372
Our File No.: 01502.00009

Dear Ms. Eckhouse:

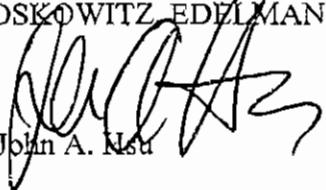
Pursuant to Local Rule 37.2 defendants are requesting a conference regarding additional outstanding discovery issues, not addressed at the conference before Judge Dolinger on April 7, 2008. Defendants request that the Court preclude any introduction of the Diskectomy surgery to plaintiff's Cervical Spine, dated December 13, 2007, or in the alternative allow defendants to conduct an additional independent medical examination of plaintiff, as well as, additional time to serve a supplemental expert disclosure pursuant to Rule 26 upon receipt of those records and films and review by defendant's expert. Judge Baer recently issued an order giving a trial start date of on or after May 23, 2008.

On April 8, 2008, one day after the conference with Judge Dolinger, plaintiff disclosed to defendants through email for the first time, a surgical report dated December 13, 2007, wherein plaintiff underwent a Diskectomy. As per Judge Baer's previous order, discovery was closed as of March 21, 2008. Furthermore, defendants held an independent medical examination of plaintiff on March 13, 2008, without the knowledge or the medical records regarding this surgical procedure performed on plaintiff, which had occurred almost three months prior. In addition, plaintiff herself, failed to inform the examining doctor of this procedure. While plaintiff recently provided to defendant's an authorization to obtain the aforementioned records, it will take at least 45 days to obtain copies of the films and records from Brooklyn Hospital, where the surgery was performed.

Thank you for your time and consideration. We look forward to hearing from you.

Very truly yours,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP


John A. Neff

Cc:

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42 Broadway, Suite 1927
New York, New York 10004
(212) 514-5100

May 1st date ~~was~~
Your choice - If you are
in need of more time
which I am doubtful you
will get arranged a/c to
shoulders. Most of your
concerns are good for
in lenient motion not
a/c sue - you can
conduct your discovery
up to the week before
trial but the last day
for motions must give all
time to decide - if I have no
scheduled but otherwise
I will do my best is 1/10/8
Open my ² ORDERED
enforcement next ~~date~~ Baen Jr., U.S.D.J.
trial ~~date~~ ^{4/1/08}

Endorsement:

May trial date was your choice. If you are in need of more time which I am doubtful you will get arrange a telephone conference to Chambers. Most of your concerns are fodder for in limine motion not yet due - you can conduct your discovery up to the week before trial but the last day for motions must give me time to decide - if I have no time trial will go on as scheduled but obviously I will do my best. "On or after May 23" in my 3/4/08 endorsement means later in the trial month.